

Service Date: October 15, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of HARVEY JAMES WEGNER, Hardin,)	
Montana, for a Class C Certificate)	DOCKET NO. T-8684
of Public Convenience and)	
Necessity.)	ORDER NO. 5622a

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ORDER ON RECONSIDERATION

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BACKGROUND

On September 16, 1985, the Commission approved and issued Final Order No. 5622 in the above Docket. That order granted the Applicant the following authority:

Class C - Stoker coal to public and private institutions between all points and places in Big Horn County.

On September 26, 1985, the Protestant Big Horn Transportation Company, Dick Irvin, Inc., and Suhr Transport, Inc. through their attorney, moved for the Commission to reconsider its decision.

In its Memorandum in Support of the Motion to Reconsider, the Protestant noted that the Commission granted the Applicant authority "far in excess of that for which testimony and evidence was provided at the hearing." Accordingly, the Protestant requested that the Commission restrict the

authority granted to the Applicant to the account of the sole shipper witness whose testimony and evidence was accepted by the Commission on the Applicant's behalf.

ANALYSIS

The Protestant has not cited any authority in support of its position. The application of Montana law does not require the restriction advocated by the Protestant, but leaves this decision to the Commission's discretion in view of all the circumstances of a case. There does exist a great deal of authority for the proposition that a finding of public convenience and necessity does not require a specific showing for every point included with the grant of a motor carrier's operating authority. Associated Pacific Movers, Housemovers, Inc. v. Rowley, 551 P.2d 618 (Idaho, 1976); Re United Parcel Service, X-6591, X-6592, July 17, 1968 (ME. PUC); Reeder v. PA. PUC, 34 PUR 3d 575, 162 A.2d 231 (PA. Super. Ct. 1960).

A finding of public convenience and necessity has been made by the Commission. As a policy matter, and in the discretion of the Commission in view of all the circumstances surrounding this proceeding, the Applicant was granted authority which encompasses all of Big Horn County. The Protestant has not presented any reasons which compel a different conclusion.

Accordingly, the Protestant's Motion for Reconsideration is DENIED.

Done in Open Session this 15th day of October, 1985, by a vote of 5-0 .

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Commission Secretary
Trenna Scoffield

(SEAL)

NOTE: You may be entitled to judicial review in this
 matter. Judicial review may be obtained by filing a
 petition for review within thirty (30) days of the
 service of this order. Section 2-4-702, MCA.